

1 Dennis F. Dunne (admitted *pro hac vice*)
2 Samuel A. Khalil (admitted *pro hac vice*)
3 MILBANK LLP
4 55 Hudson Yards
5 New York, New York 10001-2163
6 Telephone: (212) 530-5000
7 Facsimile: (212) 530-5219

8 *and*

9 Gregory A. Bray (SBN 115367)
10 Thomas R. Kreller (SBN 161922)
11 MILBANK LLP
12 2029 Century Park East, 33rd Floor
13 Los Angeles, CA 90067
14 Telephone: (424) 386-4000
15 Facsimile: (213) 629-5063

16 *Counsel for the Official Committee*
17 *of Unsecured Creditors*

18 **UNITED STATES DISTRICT COURT**
19 **NORTHERN DISTRICT OF CALIFORNIA**
20 **SAN FRANCISCO DIVISION**

21 In re:

22 PG&E CORPORATION

23 - and -

24 PACIFIC GAS AND ELECTRIC
25 COMPANY,

26 Debtors.

Civil Case No. 19-05257 (JD)

Case No. 19-30088 (DM)

Chapter 11

(Lead Case) (Jointly Administered)

**STATEMENT OF OFFICIAL COMMITTEE
OF UNSECURED CREDITORS REGARDING
JOINT STATEMENT OF THE DEBTORS
AND THE OFFICIAL COMMITTEE OF
TORT CLAIMANTS IN RESPONSE TO THE
COURT'S MAY 21, 2020 REQUEST**

1 The Official Committee of Unsecured Creditors (the “Creditors’ Committee”) appointed
 2 in the above-captioned chapter 11 cases hereby states as follows in response to the *Joint*
 3 *Statement of the Debtors and the Official Committee of Tort Claimants in Response to the*
 4 *Court’s May 21, 2020 Request* [Dkt. No. 378] (the “Joint Statement”).¹

5 STATEMENT

6 The Joint Statement asks this Court to adopt the “Aggregate Fire Victim Consideration”
 7 set forth in the TCC RSA as its estimated value of the Fire Victim Claims “for all purposes of the
 8 Debtors’ chapter 11 cases.” The Aggregate Fire Victim Consideration is composed of \$6.75
 9 billion in cash, \$6.75 billion of stock (to be more precisely valued pursuant to a formula specified
 10 in the TCC RSA), and certain assigned claims to which no particular value is ascribed.
 11 Alternatively, if the Court is not inclined to estimate the Fire Victim Claims at the Aggregate Fire
 12 Victim Consideration value, the TCC and the Debtors ask the Court to close the estimation
 13 proceeding and abstain from estimating these Claims altogether.

14 The Creditors’ Committee submits this statement to make three points.

15 *First*, the Creditors’ Committee believes, as it previously advised the Court,² that the Court
 16 should estimate the aggregate Allowed amount of the Fire Victim Claims to be \$13.5 billion.
 17 Estimating the aggregate Allowed amount of the Fire Victim Claims at a number certain, without
 18 opining on the form of currency that the Fire Victim Claims should receive on account of these
 19 Claims, is all that 11 U.S.C. § 502(c) requires or allows. It is also fully consistent with the relief
 20 requested in the Debtors’ Estimation Approval Motion and statements made by the parties in open
 21 court. *See, e.g.*, Estimation Approval Motion [Dkt. No. 286] at 10 (“Accordingly . . . this Court
 22 should adopt the \$13.5 billion amount as the estimated amount of the Fire Victim Claims for all
 23 purposes of the Debtors’ chapter 11 proceedings.”); *see also* Dec. 17, 2019 Hr’g Tr. at 6:18-7:1
 24 (Court: “I don’t think there’s anything left [to do] here either way . . . settlement gets approved,

25 ¹ Capitalized terms not defined herein have the meanings given them in the *Amended Debtors’ and*
 26 *Shareholder Proponents’ Joint Chapter 11 Plan of Reorganization Dated May 22, 2020* [Bankr. Dkt.
 27 No. 7521] (the “Plan”).

28 ² *See Official Committee of Unsecured Creditors’ Statement Regarding Response of Official Committee*
of Tort Claimants to Debtors’ Motion to Establish Estimated Amount of Fire Victim Claims for All
Purposes [Dkt. No. 309].

1 you're done. Settlement is not approved, you have effectively estimated the loss at \$13.5 billion.
 2 So what else is there to do?"; Mr. Julian: "That's the way [the TCC] would view it"; Mr. Orsini:
 3 "I think that[] sounds about where [the Debtors] are going to come out, Your Honor"); *id.* at 9:15-
 4 22 (Court: "[I]s there any reason just not to close up shop and send you on your way to . . . the
 5 Bankruptcy Court[?]"); Mr. Julian: "I don't believe there is any reason not to do that."). The Court
 6 should accordingly estimate the Fire Victim Claims in the aggregate Allowed amount of \$13.5
 7 billion—the "gold standard" of settlement data points, *id.* at 9:5—and conclude these proceedings.

8 *Second*, if the Court is inclined to estimate the Fire Victim Claims at the Aggregate Fire
 9 Victim Consideration value, it should only do so for the purposes of, and subject to the Bankruptcy
 10 Court's confirmation of, the Plan as currently proposed. The stipulated proposed order submitted
 11 by the Debtors and the TCC on May 20, 2020 included this limiting condition, but the Joint
 12 Statement does not. *Compare* [Proposed] Order [Dkt. No. 367-1] at 2 ("***Subject to the Bankruptcy***
 13 ***Court confirming the Plan and the occurrence of the Effective Date of the Plan***, the estimated
 14 aggregate amount of the Fire Victim Claims is the Aggregate Fire Victim Consideration"
 15 (emphasis added)) *with* Joint Statement at 10 ("the Debtors and the TCC . . . request that the Court
 16 enter an order estimating the aggregate Fire Victim Claims at the Aggregate Fire Victim
 17 Consideration . . . ***for all purposes of the Debtors' chapter 11 cases.***" (emphasis added)). To be
 18 clear, the Creditors' Committee does not object to the estimation value requested by the Debtors
 19 and the TCC *insofar* as it is conditioned on approval of the Plan—and it is possible the omission
 20 was inadvertent. But an estimation of the Fire Victim Claims at the Aggregate Fire Victim
 21 Consideration "for all purposes" would potentially adversely and irreversibly limit recoveries
 22 available to the Debtors' other unsecured creditors should the Plan fail for any reason. It would
 23 be inequitable for the Creditors' Committee's constituents to bear that risk.

24 *Finally*, the Joint Statement requests that if the Court declines to estimate the Fire Victim
 25 Claims at the Aggregate Fire Victim Consideration value, it should "dismiss these proceedings
 26 *without* entering an estimation order." Joint Statement at 10 (emphasis added). This would be an
 27 abdication of the Court's mandate. *See* Order Adopting Recommendation for Withdrawal of
 28 Reference of Proceeding in Part, entered Aug. 22, 2019 [Bankr. Dkt. No. 3671] at 1:22-24, 2:9-11

1 (ordering that “the following matters *will be decided* by United States District Judge James
2 Donato,” including “[t]he 11 U.S.C. 502(c) estimation of unliquidated personal injury and
3 wrongful death claims against Debtors for all purposes under 28 U.S.C. § 157(b)(2)”) (emphasis
4 added). This Court simply lacks the discretion to close up shop without estimating the aggregate
5 amount of Fire Victim Claims, and it should decline the request to do so.

6 For the foregoing reasons, the Creditors’ Committee submits the Court should estimate the
7 Fire Victim Claims at \$13.5 billion and conclude these proceedings. Alternatively, if the Court
8 adopts the Aggregate Fire Victim Consideration formulation for purposes of estimation, it should
9 do so subject to confirmation of the Plan.

10
11 Dated: May 28, 2020

12 **MILBANK LLP**

13 /s/ Gregory A. Bray
14 DENNIS F. DUNNE
15 SAMUEL A. KHALIL
16 GREGORY A. BRAY
17 THOMAS R. KRELLER

18 *Counsel for the Official Committee of*
19 *Unsecured Creditors*
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